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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 812 of 1999

in

SPECIAL CIVIL APPLICATION No 7800 of 1991

with

CIVIL APPLICATION NO. 5599 OF 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and

MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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MANJULABEN D PATEL

Versus

INDIAN OIL CORPORATION

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Appearance:

MR PB MAJMUDAR for Appellant

MR MANISH R BHATT for Respondent No. 1

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CORAM : MR.JUSTICE C.K.THAKKER and

MR.JUSTICE C.K.BUCH

Date of decision: 17/06/1999

ORAL JUDGEMENT

Admitted. Mr. M.R.Bhatt appears for respondent No.1 and waives service of Notice of admission. In the facts and circumstances of the case, appeal is taken up for final hearing .

This appeal is filed against judgment and order passed by the learned Single Judge dismissing Special Civil Application No. 7800 of 1991 on March 23,1999.

The appellant was the original petitioner. She filed the above petition for a prayer to issue appropriate writ, order or direction directing the respondent-corporation to consider the case of the petitioner's daughter Dimple for appointment on compassionate ground and to give her suitable appointment in the respondent corporation.

The case of the appellant was that her husband was serving with the respondent corporation. He died on May 11,1988. She made an application for compassionate appointment in 1988 but she was not appointed. Then she made an application for appointment of her daughter Dimple but that too was not granted.Hence, the petition.

The learned Single Judge, after considering the facts and circumstances of the case and referring to several decisions of the Apex Court, held that the appellant was not entitled to relief prayed for in the petition. The learned Single Judge ,therefore, dismissed the petition. It was also the case of the appellant that she was occupying quarter and if order would be passed dismissing the petition and if she would be compelled to vacate it, irreparable loss would be caused to her. In the facts and circumstances of the case, the learned Single Judge directed her to vacate the quarter within three months from the date of the judgment.

We have heard Mr. Majmudar for the appellant and Mr. Bhatt for the respondent corporation. So far as the order passed on merits regarding non-issuance of order of appointment on compassionate ground is concerned, in our opinion, the learned Single Judge was right in rejecting that part of the prayer and we see no infirmity therein. Even regarding quarter, the learned Single Judge had granted three months' time.

Mr. Majmudar submitted that now there will be monsoon in near future and if the order will be implemented, the appellant would be in streets. He also submitted that

the appellant is prepared to give an undertaking if reasonable time is granted , that she would hand over peaceful and vacant possession before the date fixed by this Court, but at present, some time may be granted. Mr. Bhatt, on the other hand, submitted that there is long queue of employees who have applied for quarters. The husband of the appellant died in 1988 and since then, she is occupying the quarter. It was also stated that proceedings were initiated in accordance with law and when notice was issued, the appellant filed the petition in 1991. Since 1988, i.e. after death of her husband, the appellant is occupying the quarter and hence, no further time may be granted.

In the facts and circumstances of the case that there will be monsoon in near future, we are of the opinion that ends of justice will be met if time is extended for vacating quarter upto November 30, 1999. This time is granted on the appellant filing an undertaking that she would hand over peaceful and vacant possession on or before that date. Such undertaking will be filed on or before July 5, 1999. A copy of such undertaking will be given to the learned advocate for the respondent. If undertaking as stated above is not filed, the relief granted by us will stand automatically vacated.

The appeal is accordingly allowed to the aforesaid extent. No order as to costs. No order on civil application.

(C.K.Thakkar,J.)

(C.K.Buch,J.)

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